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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/813,740 | 03/31/2004 | Jonathan Hitt | 00655P1240US | 5139 |

32116 7590 12/13/2005

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
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CHICAGO, IL 60661

EXAMINER

DUONG, THO V

ART UNIT PAPER NUMBER

3753

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

6

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/813,740 | HITT ET AL. | |
| | Examiner | Art Unit | |
| | Tho v. Duong | 3753 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 3,5,7-12,26-29 and 31-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6,13-25 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 5,10-12,26-29 and 31-33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election of species of figures 1-6 was made **without** traverse in the reply filed on 6/17/2005. The examiner further withdraws claims 3 and 7-9 from further consideration because the claims subject matters of claims 3 and 7-9, which include U-shaped frame and plastic member with reinforcement, is directed to the species of figures 7-9 only.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-2,4,6,13-25 and 30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claimed subject matter of “supports on said sides adapted to secure a vehicle to support said frame therein” is not positively supported by the specification and the drawings. It appears in the drawing that the supports (70) are not located on both sides but only one longitudinal side.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1-2,4,6,13-25 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claimed subject matter of “supports on said sides adapted to secure a vehicle to support said frame therein” renders the scope of the claim indefinite since it is not clear if applicant is claiming that the supports are on the longitudinal side as supported by the disclosure or the support are on both longitudinal side and the transverse side as claimed but not supported by the specification and the drawings.

Claims 1-2,4,6 and 30 are further rejected as can be best understood by the examiner in which the supports are located on the longitudinal side of the frame.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2,4,6 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhodes et al. (US 4,619,313) in view of Olson (US 5,360,059). Rhodes discloses (figures 1 and 3-4) a frame for mounting at least one heat exchanger in a vehicle comprising a longitudinal side and a transverse side, at least one of the side being adjustable in length in the direction of the side; fasteners (36,38,40,79) on the sides adapted to fasten to the heat exchanger (10) between the sides upon the assembly of the heat exchanger; wherein the longitudinal and transverse sides comprises a pair of longitudinal sides (46,48,50,52) extending between a pair of transverse sides (66,74,76); the pair of longitudinal side being infinitely adjustable in length in the direction of

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the pair of sides. Regarding claim 30, Rhodes discloses (figures 1,2 and 6) two heat exchangers (10,10A), each includes headers (14,16) on their top and bottom, and the fasteners (79) are on top and bottom sides of the frame and fasten the frame to the heat exchanger headers. Rhodes does not disclose supports on the side adapted to secure a vehicle to support the frame therein. Olson discloses (figure 1) a frame accommodates a radiator therein, wherein the frame has supports (18,20) on the side for a purpose of securing the frame to a vehicle.

Conclusion

The claimed subject matter of claims 13-25, particular in claim 13, is not found in the prior art of record.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Harris et al. (US 1,432,461) discloses radiator for motor vehicle.

Crews (US 4,230,176) discloses a floating radiator tank top.

Melnyk (US 4,382,464) discloses a radiator with horseshoe shaped bracket.

Christensen (US 5,570,738) discloses a radiator assembly for use in a motor vehicle.

Thompson et al. (US 5,597,047) discloses a radiator mounting for integrated power module.

Knurr (US 6,105,660) discloses two heat exchanger in a frame.

Hateley (US 6,386,273) discloses a heat exchanger assembly for vehicle.

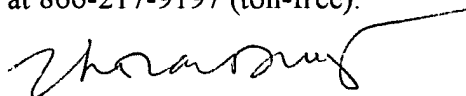
V R. Simons (US 2,147,719) discloses a vehicle radiator with an adjustable frame.

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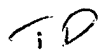
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tho v. Duong whose telephone number is 571-272-4793. The examiner can normally be reached on M-F (first Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Blau can be reached on 571-272-4406. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tho v Duong
Primary Examiner
Art Unit 3753



TD
December 2, 2005